

<b>AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT</b>			1. CONTRACT ID CODE		PAGE OF PAGES <b>1   6</b>		
2. AMENDMENT/MODIFICATION NO. <b>0001</b>		3. EFFECTIVE DATE <b>07 May 2004</b>		4. REQUISITION/PURCHASE REQ. NO.		5. PROJECT NO. (If applicable)	
6. ISSUED BY <b>DEFENSE ENERGY SUPPORT CENTER</b> <b>8725 JOHN J. KINGMAN RD., SUITE 4950</b> <b>FT. BELVOIR, VA 22060-6222 FAX: 703-767-8506</b> <b>BUYER/SYMBOL: T. JONES/DESC-PLC PP 3.27</b> <b>PHONE: 703-767-9535</b> <b>E-MAIL: THEODORE.JONES@DLA.MIL</b>		CODE <b>SP0600</b>		7. ADMINISTERED BY (If other than Item 6)			CODE
8. NAME AND ADDRESS OF CONTRACTOR (NO., street, city, county, State, and ZIP Code)				(✓)		9A. AMENDMENT OF SOLICITATION NO.  <b>SP0600-04-R-0094</b>	
				<b>X</b>		9B. DATED (SEE ITEM 11) <b>21 April 2004</b>	
						10A. MODIFICATION OF CONTRACT/ORDER NO.	
						10B. DATED (SEE ITEM 13)	
CODE		FACILITY CODE					
<b>11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS</b>							
<p><b>[ X ]</b> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers [ ] is extended, <b>[ X ]</b> is not extended</p> <p>Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:</p> <p>(a) By completing Items 8 and 15, and returning <u>1</u> copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. <b>FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER.</b> If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.</p>							
12. ACCOUNTING AND APPROPRIATION DATA (If required)							
<b>13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.</b>							
A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.							
B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b)							
C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:							
D. OTHER Specify type of modification and authority)							
E. <b>IMPORTANT:</b> Contractor [ ] is not, [ ] is required to sign this document and return _____ copies to the issuing office.							
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)							
<p><b>Solicitation SP0600-04-R-0094</b></p> <p><b>(See Continuation Pages)</b></p>							
Except as provided herein, all terms and conditions of the document referenced in Items 9A or 10A, as heretofore changed, remain unchanged and in full force and effect.							
15A. NAME AND TITLE OF SIGNER (Type or print)				16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)			
15B. CONTRACTOR/OFFEROR		15C. DATE SIGNED		16B. UNITED STATES OF AMERICA		16C. DATE SIGNED	
(Signature of person authorized to sign)				(Signature of Contracting Officer)			

A. Offerors must acknowledge receipt of this amendment by filling out block 8 above, and signing and dating blocks 15A, 15B, and 15C below, and returning this document with their offer to DESC-PLC, fax (703) 767-8506.

B. Solicitation Index Page "A" under the POSTAWARD heading is modified to include:

I1.04	CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS COMMERCIAL ITEMS (APR 2004)	IBR
I1.05	CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (JAN 2004)	IBR

1. Clause I1.03-3, on page 140 of the Solicitation, paragraph (c) is modified to read:

**"Changes in the terms and conditions of this contract may be made only by written agreement of the parties."**

2. Clause L2.05-5 on page 137 of the Solicitation, paragraph (2) is corrected to read:

"The Initial ~~opening~~/closing date for the solicitation is May 26, 2004."

3. The following changes/corrections are hereby made to Clause I1.20-1, CLAUSES AND PROVISIONS INCOPORATED BY REFERENCE (DESC JAN 2003)

- A. Under Clause I1.04, under Provisions Title (17) FAR site **52.222-35** is hereby added.
- B. Under Clause I1.04, under Provisions Title the number **(30)** is hereby added to FAR clause 52.232-34, Payment by electronic Funds Transfer-Other Than Central Registration.
- C. Under Clause I1.05, the DFARS number for clause titled Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD contracts), is corrected to read **252.219-7003**.
- D. Under Clause I84, Requirements paragraph (f) is corrected to read: **31 August 2009**
- E. Under Clause I211, Ordering paragraph (a) is corrected to read: **01 September 2004 through 31 July 2009**.

4. The following items are hereby deleted from the solicitation in their entirety:

<u>Item No.</u>	<u>Location</u>	<u>Quantity</u>
B44-70	Keams Canyon, AZ	125,000
B96-24/28	Poston, AZ	375,000
B96-68	Poston, AZ	375,000
B98-461	Rock Point, AZ	66,600
B98-462	Rock Point, AZ	133,300
C04-461	Rough Rock, AZ	225,000
C04-462	Rough Rock, AZ	350,000
E94-08	Big Bear Lake, CA	100,000
E82-08	Elsinore, CA	61,000
F46-08	Happy Camp, CA	96,100
K30-08	Lake Arrowhead, CA	100,000
J34-08	San Bernardino, CA	100,000
J38-08	San Bernardino, CA	105,000
K08-08	Sawyers Bar, CA	50,000
K08-70	Sawyers Bar, CA	41,600

<u>Item No.</u>	<u>Location</u>	<u>Quantity</u>
L11-70	Yosemite Nat'l Park	180,000
D50-08	Boron, CA	133,300
D50-68	Boron, CA	100,000
F98-08	Long Beach, CA	146,600

5. Under Clause B1.01-2, SUPPLIES TO BE FURNISHED (DOMESTIC PC&S) (PORTS INTERNET APPLICATION) (DESC MAR 1999), the following changes are hereby made to the delivery narratives of the items below:

A. Item 005-24/28 the Special Note: is revised to **delete** "EST QTY IS FOR ONE YEAR (SEP 2004 – AUG 2005)"

B. Item 999-BD is modified to read:

(CHANGES IN BOLD)

ITEM NUMBER		ESTIMATED QUANTITY	UI
999-BD	BIODIESEL B20 (BDI) <b>MUST COMPLY WITH CLAUSE C16.27</b> ***PORTS ACTIVE*** TANK TRK/TRL (TTR), INTO 1/20,000 GALLON BELOW GROUND TANK DELIVERY TICKET REQUIRED NOTE: MINIMUM FREE TIME REQUIRED IS 1 ½ HRS THIS FUEL IS CAPITALIZED <b>EST QTY IS FOR ONE YEAR (SEP 2004-AUG-2005)</b>	322,660	GL

C. Item 560-BD is modified to read:

(CHANGES IN BOLD)

ITEM NUMBER		ESTIMATED QUANTITY	UI
560-BD	BIODIESEL B20 (BDI) <b>MUST COMPLY WITH CLAUSE C16.27</b> ***PORTS ACTIVE*** TANK TRK/TRL (TTR), W/PUMP INTO 1/250,000 GALLON ABOVE GROUND TANK(S) AT BLDG 22300 1/12,000 GALLON BELOW GROUND TANK AT BLDG 22141 1/12,000 GALLON BELOW GROUND TANK AT BLDG 520167 1/10,000 GALLON BELOW GROUND TANK AT BLDG 140134 1/6,000 GALLON BELOW GROUND TANK AT BLDG 23159 DELIVERY HOURS: 0730-1500 FREE TIME FOR OFF-LOADING REQUIRES 3 HOURS. MULTIPLE DROP <b>EST QTY IS FOR ONE YEAR (SEP 2004 - AUG 2005)</b>	700,000	GL

D. Item 715-BD is modified to read:

(CHANGES IN BOLD)

ITEM NUMBER		ESTIMATED QUANTITY	UI
715-BD	BIODIESEL B20 (BDI) ***PORTS ACTIVE*** <b>MUST COMPLY WITH CLAUSE C16.27</b>  TANK TRUCK (TT), W/PUMP INTO 1/10,000 GALLON ABOVE GROUND TANK(S) AT BLDG 100 1/8,000 GALLON ABOVE GROUND TANK(S) AT BLDG 201 1/7,000 GALLON ABOVE GROUND TANK(S) AT BLDG 201 DELIVERY HOURS: 0800-1430 MULTIPLE DROP THIS FUEL IS CAPITALIZED <b>EST QTY IS FOR ONE YEAR (SEP 2004-AUG-2005)</b>	122,000	GL

6. Under Clause B1.01-2, SUPPLIES TO BE FURNISHED (DOMESTIC PC&S) (DESC MAR 1999), the following changes are hereby made:

The following items are hereby added to Solicitation SP0600-04-R-0094:

-----  
DEPARTMENT OF INTERIOR  
-----

CHINLE  
AZ, DI, BIA, NAVAJO INDIAN RESERVATION, BR OF ROADS 1.7 MILES EAST OF JCT  
S.R. 191 ON NAVAJO ROUTE 7  
APACHE COUNTY  
DELIVERY FEDAAC: 1481D8  
ORDERING OFFICE: 520-674-5170

B12-70      DIESEL FUEL #2, HIGH SUL (HS2)      125,000    GL  
  
TANK WAGON (TW), INTO  
2/3,000 GALLON ABOVE GROUND TANKS  
DELIVERY HOURS: 0800-1700 MONDAY THRU FRIDAY  
EXCLUDING HOLIDAYS

PINON  
AZ, DI, BIA, CHINLE AGENCY, BR OF ROADS, MAINT, APPROX 130 MI NW OF  
GALLUP, NM  
NAVAJO COUNTY  
DELIVERY FEDAAC: 1481D8  
ORDERING OFFICE: 520-674-5170

B92-70      DIESEL FUEL #2, HIGH SUL (HS2)      125,000    GL  
  
TANK TRUCK (TT), W/PUMP INTO  
1/12,000 GALLON TANK

7. The following Clause is hereby deleted in its entirety from the solicitation:

C16.18      GASOLINE, AUTOMOTIVE, LEADED OR UNLEADED  
(REGULAR/MIDGRADE/PREMIUM) (DESC JUL 1998)

8. Clause B19.19 is hereby deleted and replaced with Clause B19.19.100 which is incorporated in full text to Solicitation SP0600-04-R-0094 as follows:

**B19.19.100    ECONOMIC PRICE ADJUSTMENT (PC&S) (DESC MAY 2004)**

(a) **WARRANTIES.** The Contractor warrants that--

(1) The unit prices set forth in the Schedule do not include allowances for any portion of the contingency covered by this clause;

and

(2) The prices to be invoiced hereunder shall be computed daily in accordance with the provisions of this clause.

(b) **DEFINITIONS.** As used throughout this clause, the term--

(1) **Base price** means--

(i) The unit price offered for an item and included in the contract award schedule; or

(ii) During any subsequent program year, either the effective contract price as of the start of the subsequent program year, or the price agreed upon as of the start of the subsequent program year.

**B19.19.100 (Con't)**

(2) **Base reference price** means the reference price for an item as published on March 29 2004. In the event one or more applicable reference prices are not (or were not) published on the date shown, then the term **base reference price** means the reference price for an item as published on the date nearest in time prior to the date shown.

(3) **Reference price** means that published reference price or combination of published reference prices for price adjustment for individual items by product, market area, and publication as specified in (f) below.

(4) **Date of delivery** means--

(i) **FOR TANKER OR BARGE DELIVERIES.**

(A) **F.O.B. ORIGIN.** The date and time vessel commences loading.

(B) **F.O.B. DESTINATION.** The date and time vessel commences discharging.

(ii) **FOR ALL OTHER TYPES OF DELIVERIES.** The date product is received on a truck-by-truck basis.

(c) **ADJUSTMENTS.** Contract price adjustments shall be provided via notification through contract modifications and/or posting to the DESC web page under the heading **Doing Business with DESC** to reflect any price change pursuant to this clause.

(1) **CALCULATIONS.** The prices payable hereunder shall be determined by adding to the award price the same number of cents, or fraction thereof, that the daily reference price increases or decreases, per like unit of measure. All arithmetical calculations, including the final adjusted unit price, shall be carried to six decimal places, truncated.

(i) **OIL PRICE INFORMATION SERVICE (OPIS).** For all items employing OPIS, the reference price in effect on the date of delivery shall be the end of day OPIS contract average effective that day. In the event there is no price published for date of delivery, then it shall be the item's reference price as last previously published.

(ii) **OTHER PUBLICATIONS.** Except for items employing OPIS, the reference price in effect on the date of delivery shall be that item's reference price that is published effective the date of delivery. In the event there is no price published for date of delivery, then it shall be the item's reference price as last previously published.

(2) **REVISION OF PUBLISHED REFERENCE PRICE.** In the event--

(i) Any applicable reference price is discontinued or its method of derivation is altered substantially; or

(ii) The Contracting Officer determines that the reference price consistently and substantially failed to reflect market conditions--

the parties shall mutually agree upon an appropriate and comparable substitute for determining the price adjustments hereunder. The contract shall be modified to reflect such substitute effective on the date the reference price was discontinued, altered, or began to consistently and substantially fail to reflect market conditions. If the parties fail to agree on an appropriate substitute, the matter shall be resolved in accordance with paragraph (d), Disputes, of the CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS clause of this contract.

(3) **FAILURE TO DELIVER.** Notwithstanding any other provisions of this clause, no upward adjustment shall apply to product scheduled under the contract to be delivered before the effective date of the adjustment, unless the Contractor's failure to deliver according to the delivery schedule results from causes beyond the Contractor's control and without its fault or negligence within the meaning of paragraphs (f), Excusable Delays, and (m), Termination for Cause, of the CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS clause of this contract, or is the result of an allocation made in accordance with the terms of the ALLOCATION clause of this contract, in which case the contract shall be amended to make an equitable extension of the delivery schedule.

(4) **UPWARD CEILING ON ECONOMIC PRICE ADJUSTMENT.** The Contractor agrees that the total increase in any contract unit price pursuant to these economic price adjustment provisions shall not exceed 60 percent of the base price in any applicable program year (whether a single year or a multiyear program), except as provided hereafter.

(i) If at any time the Contractor has reason to believe that within the near future a price adjustment under the provisions of this clause will be required that will exceed the current contract ceiling price for any item, the Contractor shall promptly notify the Contracting Officer in writing of the expected increase. The notification shall include a revised ceiling the Contractor believes is sufficient to permit completion of remaining contract performance, along with an appropriate explanation and documentation as required by the Contracting Officer.

(ii) If an actual increase in the reference price would raise a contract unit price for an item above the current ceiling, the Contractor shall have no obligation under this contract to fill pending or future orders for such item, as of the effective date of the increase, unless the Contracting Officer issues a contract modification to raise the ceiling. If the contract ceiling will not be raised, the Contracting Officer shall so promptly notify the Contractor in writing.

(d) **EXAMINATION OF RECORDS.** The Contractor agrees that the Contracting Officer or designated representatives shall have the right to examine the Contractor's books, records, documents, or other data the Contracting Officer deems necessary to verify Contractor adherence to the provisions of this clause.

(e) **FINAL INVOICE.** The Contractor shall include a statement on the final invoice that the amounts invoiced hereunder have applied all decreases required by this clause.

(f) **PUBLICATIONS:** The following publication(s) is (are) used:

**OPIS – Oil Price Information Service PAD Reports – Average Price for the city and product noted**

9. The following Clause is hereby incorporated in full text to Solicitation SP0600-04-R-0094:

(This clause will only apply to Biodiesel Items)

**I209.09 EXTENSION PROVISIONS (DESC APR 2003)**

(a) The DESC Contracting Officer reserves the right to unilaterally extend this contract on the same terms and conditions one or more times for a total of no more than six months. Notice of contract extension will be furnished to the Contractor 30 days prior to expiration of this contract or any extension thereof. However, nothing in this clause precludes the Contractor from agreeing to an extension of the contract if the DESC Contracting Officer fails to issue the notice within the 30 day time frame.

(b) The foregoing extension may be exercised by the DESC Contracting Officer where continued performance is required until a follow-on contract is awarded or, in the event a follow-on contract has been awarded, until a succeeding Contractor is positioned to commence performance.

(c) Extension of this contract shall be considered to have been accomplished at the time the DESC Contracting Officer provides written notification to the Contractor by facsimile or by mail.

(DESC 52.217-9F20)

C. The Closing date of Solicitation SP0600-04-R-0094 remains May 26, 2004.